

Filing # 151277811 E-Filed 06/10/2022 02:52:52 PM

MODESTA SANTAMARIA,

Plaintiff,

v.

AMERICA'S SERVICE LINE, LLC,
and DONALD A. WATTERS,

Defendants.

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO.:

COMPLAINT FOR DAMAGES

Plaintiff, MODESTA SANTAMARIA, by and through undersigned counsel, sues Defendants, AMERICA'S SERVICE LINE, LLC and DONALD A. WATTERS, and alleges as follows:

GENERAL ALLEGATIONS

1. This is an action for damages in excess of Thirty Thousand (\$30,000.00) Dollars, exclusive of attorney's fees and costs.
2. At all times material hereto, Plaintiff, MODESTA SANTAMARIA, was and is a resident of Miami-Dade County, Florida and is otherwise *sui juris*.
3. At all times material hereto, Defendant, AMERICA'S SERVICE LINE, LLC, was and is a Wisconsin corporation, with a principal place of business located at 1814 Elizabeth Street, Green Bay, WI 54302, doing business as an interstate motor carrier transporting goods for hire and who, at all times material hereto, engaged in interstate commerce including the transportation of goods within the State of Florida.
4. At all times material hereto, the Defendant, AMERICA'S SERVICE LINE, LLC, regularly transported goods on the highways and interstates within the State of Florida, conducted



substantial business in Florida, and the claims raised herein arose out of AMERICA'S SERVICE LINE, LLC's substantial business activities in the State of Florida.

5. At all times material hereto, the Defendant, AMERICA'S SERVICE LINE, LLC, employed, hired, leased and/or trained truck drivers who resided, operated and/or drove on the highways and interstates within the State of Florida, conducted substantial business in Florida, and the claims raised herein arose out of AMERICA'S SERVICE LINE, LLC's substantial business activities in the State of Florida.

6. At all times material hereto, Defendant, DONALD A. WATTERS (hereinafter referred as to "WATTERS" or "Defendant Driver"), was a resident of Michigan and at all times material hereto was acting within the course and scope of his employment and/or agency for AMERICA'S SERVICE LINE, LLC. at the time of the motor vehicle collision which forms the basis for this action.

7. Venue is proper in Miami-Dade County, Florida, because the motor vehicle collision from which this cause of action arises occurred in Miami-Dade County, Florida.

8. At all times material hereto, Defendant, AMERICA'S SERVICE LINE, LLC, was the employer of Defendant, WATTERS, and all actions of Defendant, WATTERS, were within the course and scope of his employment with AMERICA'S SERVICE LINE, LLC.

9. At all times material hereto, Defendant, AMERICA'S SERVICE LINE, LLC, owned, leased, maintained and/or controlled the truck that was being operated within the State of Florida, a 2008 Kenworth Truck (VIN:1XKAD49X38J219027) (hereinafter "subject truck"), which was being operated by Defendant Driver with the knowledge, consent and permission of AMERICA'S SERVICE LINE, LLC.

10. On or about October 13, 2020, the Plaintiff was traveling eastbound on NW 31st Street just north of NW 74th Avenue, in Miami-Dade County, Florida when the vehicle she was traveling in was suddenly and unexpectedly struck and dragged by the aforementioned 2008 Kenworth Truck being driven by Defendant, WATTERS.

11. At all times material, Defendant, WATTERS, carelessly and negligently operated the subject truck so as to cause it to collide with the Plaintiff's vehicle.

COUNT I
VICARIOUS LIABILITY AGAINST DEFENDANT, AMERICA'S SERVICE LINE, LLC
UNDER THE DANGEROUS INSTRUMENTALITY DOCTRINE

Plaintiff, MODESTA SANTAMARIA, hereinafter reaffirms and realleges each and every allegation contained in the General Allegations as if fully set forth herein, and further alleges:

12. At all times material, Defendant, AMERICA'S SERVICE LINE, LLC, owned, leased, controlled and/or maintained the subject truck being operated by Defendant, WATTERS, at the time of the motor vehicle collision giving rise to this lawsuit.

13. At all times material, Defendant, AMERICA'S SERVICE LINE, LLC, had knowledge of, authorized, consented to and/or entrusted WATTERS with the subject truck involved in the collision.

14. At all times material, Defendant, AMERICA'S SERVICE LINE, LLC, owed a duty to exercise reasonable care in the ownership, operation, maintenance, control and/or use of its truck for the benefit of other individuals on the public roadways.

15. At all material times, Defendant, AMERICA'S SERVICE LINE, LLC, breached its duty of care to other individuals on the above-described public roadway, and in particular to Plaintiff, MODESTA SANTAMARIA, as the subject truck was negligently and carelessly driven causing the motor vehicle collision described above.

16. At all times material hereto, Defendant, AMERICA'S SERVICE LINE, LLC, was and is strictly and vicariously liable to Plaintiff, MODESTA SANTAMARIA, as a result of the negligence of its employee and/or agent, Defendant Driver.

17. As a direct and proximate result of the aforementioned negligence, Plaintiff, MODESTA SANTAMARIA, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are permanent and continuing, and Plaintiff, MODESTA SANTAMARIA, will suffer such losses into the future.

WHEREFORE, Plaintiff, MODESTA SANTAMARIA, demands judgment for damages and all costs of said proceedings against Defendant, AMERICA'S SERVICE LINE, LLC, together with whatever other relief the Court deems just and appropriate.

COUNT II
VICARIOUS LIABILITY AGAINST DEFENDANT, AMERICA'S SERVICE LINE, LLC
UNDER THE DOCTRINE OF RESPONDEAT SUPERIOR

Plaintiff, MODESTA SANTAMARIA, hereinafter reaffirms and realleges each and every allegation contained in the General Allegations as if fully set forth herein, and further alleges:

18. At all times material hereto, Defendant, WATTERS was an employee, servant, and/or agent of Defendant, AMERICA'S SERVICE LINE, LLC, and was acting in the course and scope of his employment and/or agency at the time of the aforementioned motor vehicle crash, and the Defendant, AMERICA'S SERVICE LINE, LLC, is responsible for the actions and conduct of Defendant Driver under the doctrine of respondeat superior.

19. At all times material hereto, Defendant, WATTERS, was operating the subject truck in the State of Florida under the direct control and for the benefit of Defendant, AMERICA'S SERVICE LINE, LLC.

20. At all times material hereto, WATTERS, carelessly and negligently operated the subject truck so as to cause it to collide with the Plaintiff's vehicle.

21. At all times material hereto, Defendant, AMERICA'S SERVICE LINE, LLC, was the employer and/or principal of the Defendant Driver.

22. As a direct and proximate result of the aforementioned negligence, the Plaintiff, MODESTA SANTAMARIA, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are permanent and continuing, and Plaintiff, MODESTA SANTAMARIA will suffer such losses into the future.

WHEREFORE, the Plaintiff, MODESTA SANTAMARIA, hereby demands judgment for all damages, costs and interest recoverable from the Defendant, AMERICA'S SERVICE LINE, LLC, together with any additional relief the Court deems just and appropriate.

COUNT III – NEGLIGENCE AGAINST DEFENDANT, DONALD A. WATTERS

23. At all times material, Defendant, WATTERS, owed a duty to exercise reasonable care in the ownership, operation, maintenance, control and/or use of the subject truck and in compliance with Florida laws and statutes, Federal law, the FMCSA and/or other regulations, codes and statutes, for the benefit of other individuals on the public roadways.

24. At all material times, Defendant, WATTERS breached his duty of care to other individuals on the above-described public roadway, and in particular to Plaintiff, MODESTA SANTAMARIA, by:

- a. Failing to operate the subject truck in a safe and reasonable manner;
- b. Failing to operate the subject truck in compliance with state and local traffic laws;

- c. Failing to yield the right of way;
- d. Failing to stop for vehicles in the road;
- e. Operating the Defendant Truck while fatigued and/or distracted; and/or
- f. Failing to avoid the collision with Plaintiff's vehicle.

25. As a direct and proximate result of the aforementioned negligence, Plaintiff, MODESTA SANTAMARIA, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are permanent and continuing, and Plaintiff, MODESTA SANTAMARIA will suffer such losses into the future.

WHEREFORE, Plaintiff, MODESTA SANTAMARIA, demands judgment for damages and all costs of said proceedings against Defendant, DONALD A. WATTERS, together with whatever other relief the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, MODESTA SANTAMARIA, demands trial by jury of all issues triable as a right by a jury.

[CERTIFICATE OF SERVICE ON FOLLOWING PAGE]

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via a certified process server.

Dated this 10th day of June 2022.

SIMON TRIAL FIRM

Attorneys for Plaintiff

2601 South Bayshore Drive, Suite 1010

Miami, Florida 33133

Telephone: (305) 375-6500

Facsimile: (305) 375-0388

Email: pleadings@simon-trial.com

By: /s/ Kyle A. Quintana
RONALD M. SIMON, ESQ.
Florida Bar No.: 165262
KYLE A. QUINTANA, ESQ.
Florida Bar No.: 1003110